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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 GENE ALLEN,

Case No. 3:21-cv-00047-MMD-CLB

7 Petitioner,

ORDER

8 v.

9 STATE OF NEVADA, *et al.*,

10 Respondents.
11

12 On January 26, 2021, the Court entered an order and judgment summarily
13 dismissing Petitioner Gene Allen's habeas petition because the petition failed to state a
14 ground for habeas relief. (ECF Nos. 4, 6.) Allen filed on January 28, 2021, a motion under
15 Fed. R. Civ. P. 60(b) asking for reconsideration, then filed another on February 11, 2012.
16 (ECF Nos. 7, 10.)¹

17 Under Rule 60(b) of the Federal Rules of Civil Procedure, the Court may relieve a
18 party from a final judgment in the following circumstances: (1) mistake, inadvertence,
19 surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud; (4) the judgment
20 is void; (5) the judgment has been satisfied; or (6) any other reason justifying relief from
21 the judgment. *See Stewart v. Dupnik*, 243 F.3d 549, 549 (9th Cir. 2000). Allen fails to
22 establish that he is entitled to relief under any of these grounds. Alternatively, he has also
23 not shown that he is entitled to relief under Fed. R. Civ. Proc. 59(e). *See Kona Enters. v.*
24 *Est. of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (internal quotations omitted) ("[A] motion
25 for reconsideration should not be granted, absent highly unusual circumstances, unless
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28 ¹Though not identical, the second motion does not add to the argument contained
in the first.

1 the district court is presented with newly discovered evidence, committed clear error, or if
2 there is an intervening change in the controlling law.”)

3 It is therefore ordered that Petitioner Allen’s motions for reconsideration (ECF Nos.
4 7, 10) are denied.

5 It is further ordered that a certificate of appealability is denied, as reasonable jurists
6 would not find the denial of the motions to be wrong or debatable.

7 DATED THIS 28th Day of May 2021.

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11 MIRANDA M. DU
12 CHIEF UNITED STATES DISTRICT JUDGE
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